

**The Taxpayer Advocate Service Effectively  
Responded to Taxpayers Requesting Relief  
from a Significant Hardship**

**April 2001**

**Reference Number: 2001-10-073**

**This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

April 20, 2001

MEMORANDUM FOR NATIONAL TAXPAYER ADVOCATE

A handwritten signature in cursive script, reading "Pamela J. Gardiner".

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Taxpayer Advocate Service Effectively  
Responded to Taxpayers Requesting Relief from a Significant  
Hardship

This report presents the results of our review of the Taxpayer Advocate Service's implementation of the law addressing relief for taxpayers with a significant hardship.

In summary, we found the Taxpayer Advocate Service effectively implemented the provision of the law providing relief for taxpayers with a significant hardship. The Taxpayer Advocate Service established procedures for processing applications for Taxpayer Assistance Orders (TAOs). Caseworkers effectively confirmed whether taxpayers were suffering or about to suffer a significant hardship and initiated appropriate resolution actions. Additionally, the Local Taxpayer Advocates determined whether TAOs were necessary to relieve taxpayers' significant hardships.

We have included your comments agreeing with our conclusions as Appendix IV to this report.

Copies of this report are being sent to the Internal Revenue Service managers who are affected by the report. Please contact me at (202) 622-6510 or Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500, if you have any questions.

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# **The Taxpayer Advocate Service Effectively Responded to Taxpayers Requesting Relief from a Significant Hardship**

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## **Executive Summary**

The Taxpayer Advocate Service acts as an advocate for taxpayers within the Internal Revenue Service's (IRS) operations. A Taxpayer Advocate Service goal is to provide prompt and appropriate relief on problems the IRS has been previously unable to resolve to the taxpayers' satisfaction.

The National Taxpayer Advocate and Local Taxpayer Advocates have the authority to issue a Taxpayer Assistance Order (TAO) after determining that a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being applied.<sup>1</sup> A TAO may require the IRS to release taxpayers' property or to take an action permitted by law. It may also stop the IRS from taking an action. The IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>2</sup> expanded the definition of a significant hardship.

Taxpayer Advocate caseworkers confirm that a taxpayer's circumstances meet the criteria for a significant hardship and then determine the actions needed to relieve that hardship. The caseworkers will either take the actions themselves or send a request to an IRS function to take the required actions. If the IRS function refuses or fails to complete the requested actions, the National or Local Taxpayer Advocates can issue a TAO requiring that the actions be taken.

The overall objective of this audit was to determine if the Taxpayer Advocate Service effectively implemented the law addressing relief for taxpayers with a significant hardship. The Taxpayer Advocate Service closed approximately 120,000 cases of taxpayers requesting relief from a significant hardship (as defined by law) and issued 5 TAOs during Fiscal Year 2000.

## **Results**

The Taxpayer Advocate Service effectively implemented the provision of the law providing relief for taxpayers with a significant hardship. The Taxpayer Advocate Service also established procedures for processing applications for TAOs. Caseworkers effectively confirmed if taxpayers were suffering or about to suffer a significant hardship and initiated appropriate resolution actions. Additionally, the Local Taxpayer Advocates determined if TAOs were necessary to relieve taxpayers' significant hardships.

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<sup>1</sup> 26 U.S.C. § 7811 (2000).

<sup>2</sup> Pub. L. No. 105-206 § 1102(c), 112 Stat. 703.

## **The Taxpayer Advocate Service Effectively Responded to Taxpayers Requesting Relief from a Significant Hardship**

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### **Caseworkers Confirmed Taxpayers' Significant Hardship Claims and Initiated Appropriate Resolution Actions**

The Taxpayer Advocate Service established procedures to assist caseworkers in effectively processing applications. In general, caseworkers appropriately confirmed that taxpayers met the criteria for a significant hardship in the 30 cases we reviewed. Caseworkers then identified the appropriate actions, including those necessary to relieve each taxpayer's significant hardship and to help resolve each taxpayer's problem without delay. The caseworkers then took the actions or requested that the responsible IRS function initiate the actions necessary.

### **Local Taxpayer Advocates Determined if Taxpayer Assistance Orders Issued Were Necessary to Grant Taxpayers Relief**

The Taxpayer Advocate Service established procedures to assist Local Taxpayer Advocates. When Local Taxpayer Advocates issued a TAO, the taxpayer was suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws were being applied. The Local Taxpayer Advocates properly issued four of the five TAOs in accordance with the law. In the fifth instance, the Local Taxpayer Advocate mistakenly exceeded his/her authority when issuing the TAO. Specifically, the Local Taxpayer Advocate improperly issued the TAO to grant relief from a tax liability, an action not permitted by law.

Management's Response: The National Taxpayer Advocate agreed with the results and conclusions presented in this report.

## The Taxpayer Advocate Service Effectively Responded to Taxpayers Requesting Relief from a Significant Hardship

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### Objective and Scope

*We determined if the Taxpayer Advocate Service effectively implemented the law addressing relief for taxpayers with a significant hardship.*

The overall objective of this audit was to determine if the Taxpayer Advocate Service in the Internal Revenue Service (IRS) effectively implemented the provision of the IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>1</sup> addressing relief for taxpayers with a significant hardship. We determined if the process ensured caseworkers confirmed that taxpayers met the criteria for a significant hardship and identified the appropriate resolution action to help resolve the taxpayers' problems, including the issuance of Taxpayer Assistance Orders (TAO).

*We reviewed a sample of cases involving taxpayers with a significant hardship received after March 31, 2000, and the five TAOs issued in FY 2000.*

The Taxpayer Advocate Service became an independent organization on March 12, 2000. We randomly selected a sample of 30 cases involving taxpayers requesting relief from a significant hardship received after March 31, 2000, and closed during June 2000. We limited our selection to cases that took at least 30 calendar days to complete. We also reviewed the five TAOs issued in Fiscal Year (FY) 2000.

This audit was performed between October 2000 and January 2001 in accordance with *Government Auditing Standards*. Our field work was performed in the Treasury Inspector General for Tax Administration's Chicago, IL office. The local Taxpayer Advocate provided the case files to our Chicago office for review. Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

### Background

The Taxpayer Advocate Service acts as an advocate for taxpayers within the IRS' operations. The Taxpayer

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<sup>1</sup> Pub. L. No. 105-206 § 1102(c), 112 Stat. 703.

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Advocate Service provides prompt and appropriate relief on problems the IRS had been previously unable to resolve to the taxpayers' satisfaction. Local Taxpayer Advocates are located in each state and at each of the IRS Centers. The Taxpayer Advocate Service closed approximately 120,000 cases of taxpayers requesting relief from a significant hardship (as defined by law) during FY 2000.

The National Taxpayer Advocate and the Local Taxpayer Advocates have the authority to issue a TAO after determining that a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being applied.<sup>2</sup> A TAO may require the IRS to release taxpayers' property or to take an action permitted by law. It may also stop the IRS from taking an action.

The RRA 98 further defined the meaning of a significant hardship to include: a) an immediate threat of adverse action; b) a delay of more than 30 days in resolving taxpayer account problems; c) the incurring by the taxpayer of significant costs if relief is not granted; and d) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

Taxpayers or their representatives request relief from a significant hardship by completing an application for a TAO. They may also request relief by telephone or letter, and an IRS employee will complete the application for them.

Taxpayer Advocate caseworkers confirm that a taxpayer's circumstances meet the criteria for a significant hardship and then determine the actions needed to relieve that hardship. The caseworkers will either take the actions themselves or send a request to an IRS function to take the required actions. If the IRS function refuses or fails to complete the requested actions, the National or Local Taxpayer Advocates can issue a TAO requiring that the actions be taken.

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<sup>2</sup> 26 U.S.C. § 7811 (2000).

## The Taxpayer Advocate Service Effectively Responded to Taxpayers Requesting Relief from a Significant Hardship

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### Results

*The Taxpayer Advocate Service effectively implemented the provision of the RRA 98 relating to taxpayers with a significant hardship.*

The Taxpayer Advocate Service effectively implemented the provision of the RRA 98 providing relief for taxpayers with a significant hardship. The Taxpayer Advocate Service also established procedures for processing applications for TAOs. Caseworkers effectively confirmed if taxpayers were suffering or about to suffer a significant hardship and initiated appropriate resolution actions. Additionally, the Local Taxpayer Advocates determined if TAOs were necessary to relieve taxpayers' significant hardships.

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### Caseworkers Confirmed Taxpayers' Significant Hardship Claims and Initiated Appropriate Resolution Actions

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*Caseworkers appropriately confirmed significant hardships and initiated actions to relieve taxpayers' significant hardships.*

The Taxpayer Advocate Service established procedures to assist caseworkers in effectively processing applications for relief. In general, caseworkers appropriately confirmed the taxpayers' reasons for significant hardship in the 30 cases we reviewed. Caseworkers also identified the appropriate actions, including those necessary to relieve each significant hardship or to help resolve each taxpayer's problem without delay. Caseworkers either initiated the necessary resolution actions themselves or requested that another IRS function initiate the resolution actions. When taxpayers did not respond with the required information, the caseworkers were prevented from addressing the hardship.

When necessary, caseworkers initiated account adjustments to resolve taxpayers' problems. In those instances, caseworkers sometimes initiated account adjustments that exceeded the authority delegated to the caseworkers. This did not affect the legitimacy of the account adjustments, however. The IRS procedures limited caseworkers to only some of the account adjustment authorities available to certain IRS functions.



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Subsequently, a task force established by the IRS Commissioner recommended expanding the scope of caseworkers' delegated authorities to include these account adjustments. In January 2001, the IRS Commissioner approved the recommendations and expanded caseworkers' delegated authorities. The then Acting National Taxpayer Advocate stated that, "Taxpayer Advocate Service personnel will be able to resolve these issues themselves, eliminating the time-consuming step of referring such matters to other functions in the IRS."

We did not evaluate the expanded authorities during this audit.

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### **Local Taxpayer Advocates Determined if Taxpayer Assistance Orders Issued Were Necessary to Grant Taxpayers Relief**

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*Local Taxpayer Advocates determined if TAOs were necessary to relieve each taxpayer's significant hardship.*

When Local Taxpayer Advocates issued a Taxpayer Assistance Order, the taxpayer was suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws were being applied. In the five TAOs issued, Local Taxpayer Advocates appropriately confirmed each taxpayer's significant hardship and determined what actions were necessary to relieve the significant hardship or resolve the taxpayer's problem. Four of the five requests for relief related to a Federal Tax Lien, which attaches a claim to a taxpayer's assets for the amount of unpaid tax liabilities.

The Taxpayer Advocate Service established procedures to assist Local Taxpayer Advocates. The Local Taxpayer Advocates issued four of the five TAOs after the IRS function declined to take the resolution action to relieve the taxpayer's significant hardship. The Local Taxpayer Advocates' case files documented the reasons the IRS functions did not or would not take the actions. In the TAOs we reviewed, the Local Taxpayer Advocates outlined the necessary actions to relieve each taxpayer's hardship. The responsible IRS functional

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officials then took the necessary actions in compliance with the TAOs.

In one instance, the Local Taxpayer Advocate mistakenly exceeded his/her authority to issue a TAO. Specifically, the Local Taxpayer Advocate improperly issued the TAO to grant relief from a tax liability, an action not permitted by law. In that case, the taxpayer requested relief from an existing tax liability under the innocent spouse provisions of the law.<sup>3</sup> A Treasury Regulation<sup>4</sup> provides that a TAO cannot be issued “to contest the merits of a tax liability.” Also, the taxpayer could have appealed the tax liability through the IRS administrative appeals process. However, this was no longer an option once the function complied with the TAO, granting the taxpayer relief. We do not believe that any further actions are warranted on this case.

### **Conclusion**

Overall, the Taxpayer Advocate Service has processes in place to effectively address applications for relief from taxpayers who believe they have suffered or are about to suffer a significant hardship as a result of the application of the tax laws. The National Taxpayer Advocate agreed with the results and conclusions presented in this report.

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<sup>3</sup> 26 U.S.C. § 6015 (2000).

<sup>4</sup> 26 C.F.R. § 301.7811-1 (amended 2000).

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### **Appendix I**

#### **Detailed Objective, Scope, and Methodology**

The overall objective was to determine if the Taxpayer Advocate Service in the Internal Revenue Service (IRS) effectively implemented the provision of the IRS Restructuring and Reform Act of 1998 (RRA 98),<sup>1</sup> the law addressing relief for taxpayers with a significant hardship. We determined if the process ensured caseworkers confirmed taxpayers met the criteria for a significant hardship and identified the appropriate resolution action to help resolve each taxpayer's problem, including the issuance of Taxpayer Assistance Orders (TAOs).

- I. To determine if caseworkers effectively processed applications for TAOs, we reviewed 30 cases involving taxpayers with a significant hardship as defined by the RRA 98. We randomly selected a sample of 30 of the 4,336 cases identified on the Taxpayer Advocate Management Information System as involving taxpayers with a significant hardship that were received after March 31, 2000 and closed in June 2000. We selected only cases open for at least 30 days to ensure that the issues causing the taxpayer requests had some degree of complexity. Specifically, we determined if caseworkers:
  - A. Confirmed taxpayers met the criteria for a significant hardship as defined by law.
  - B. Identified the appropriate resolution actions to relieve each taxpayer's significant hardship or help resolve each taxpayer's problem.
  - C. Processed cases without delays.
  - D. Communicated with taxpayers or their representatives on the case status.
- II. To determine if the Taxpayer Advocate Service effectively processed TAOs when needed, we reviewed the five cases closed in Fiscal Year 2000 where a TAO was issued. Specifically, we determined if the Local Taxpayer Advocates:
  - A. Confirmed that the taxpayers met the criteria for a significant hardship.
  - B. Identified the appropriate resolution action to relieve each taxpayer's significant hardship or help resolve each taxpayer's problem.
  - C. Attempted to provide relief or requested that the appropriate IRS functions provide the taxpayers relief and documented the reasons the IRS function did not or would not provide relief.

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<sup>1</sup> Pub. L. No. 105-206 § 1102(c), 112 Stat. 703.

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- D. Issued TAOs with clearly stated actions and time frames. We verified this from the four TAOs located and concluded it from the actions taken and documentation available in the fifth instance.
- E. Determined if the responsible IRS functional official took the necessary actions in compliance with the TAO.

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**Appendix II**

**Major Contributors to This Report**

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Mary V. Baker, Director

Ronald F. Koperniak, Audit Manager

Donald L. McDonald, Senior Auditor

Donald Evans, Auditor

Janice A. Murphy, Auditor

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**Appendix III**

**Report Distribution List**

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**Appendix IV**

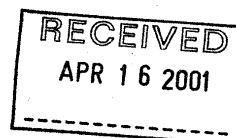
**Management's Response to the Draft Report**



National  
Taxpayer Advocate

Department of the Treasury  
Internal Revenue Service  
Washington, DC 20224

APR 12 2001



MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX  
ADMINISTRATION

FROM: *for* Nina E. Olson  
National Taxpayer Advocate *Henry O. Raman, Jr.*

SUBJECT: Response to Draft Audit Report – The Taxpayer  
Advocate Service Effectively Responded to  
Taxpayers Requesting Relief From a Hardship

Thank you for the opportunity to review this report. I am extremely pleased to hear that your findings reflect that the Taxpayer Advocate Service (TAS) organization is fulfilling its mission in the critical areas outlined. Specifically, your audit findings note that we have effectively implemented the provisions of RRA98 relating to taxpayers with a significant hardship, provided relief for taxpayers as required, and taken appropriate resolution actions.

I concur with the results and conclusions reflected in the report. The TAS Organization is in the process of developing guidelines and delivering a comprehensive training plan on the new delegated authorities. This will address any confusion that may exist in the area of authorities and clarify circumstances that may warrant an enforced TAO. The new authorities delegated by the Commissioner of the Internal Revenue Service to the NTA will enable TAS employees to resolve taxpayer problems more effectively.

Please extend my thanks to your staff for their candor and open communication throughout the audit process.